

**BEFORE THE
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

In The Matter Of:

KOREA EXPRESS USA, INC.,

Respondent

**Docket No. FMCSA-2008-0129¹
(Eastern Service Center)**

ORDER TERMINATING PROCEEDING AND CLOSING DOCKET

On March 25, 2008, the New Jersey Division Administrator, Federal Motor Carrier Safety Administration (FMCSA) served a Notice of Claim (NOC) on Respondent proposing a civil penalty of \$17,100 for 19 violations of 49 CFR 395.8(e), false reports of records of duty status. On May 5, 2008, the Field Administrator for FMCSA's Eastern Service Center (Claimant) served a Notice of Default and Final Agency Order (NDFAO) based upon Respondent's failure to file a timely reply to the NOC. The NDFAO advised Respondent that the NOC would become the Final Agency Order in this proceeding effective May 5, 2008, with the civil penalty immediately due and payable on that date.²

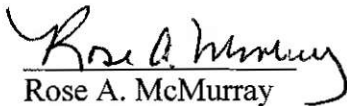
On May 7, 2008, Respondent served a Petition for Reconsideration of the Final Agency Order. Respondent claimed it was attempting to negotiate a settlement for a reduced civil penalty. Instead of responding to the Petition for Reconsideration, Claimant entered into a Settlement Agreement with Respondent, but failed to notify the Assistant Administrator that it had done so until May 13, 2010.

¹ The prior case number was NJ-2008-0068-US0853.

² Neither Claimant nor Respondent submitted copies of the NOC or NDFAO for the record. Copies of these documents are contained in FMCSA's Electronic Document Management System and I am taking official notice of both documents in accordance with 49 CFR 386.31.

On May 13, 2010, the Acting Field Administrator for FMCSA's Eastern Service Center served a Notification of Settlement and Motion to Close Docket. Under the Settlement Agreement, which was executed on May 15, 2008, and adopted as a Final Order,³ Respondent agreed to pay the negotiated amount of \$14,500 in eight monthly payments, with the remainder of the \$2,600 penalty held in abeyance, provided Respondent complies with its payment obligation. Respondent's payment obligation expired on December 28, 2008, and there is no indication that it has not complied with this obligation.

THEREFORE, *It Is Hereby Ordered*, the Settlement Agreement is the Final Order in this matter, the proceeding is terminated, and the docket is closed.



Rose A. McMurray
Assistant Administrator
Federal Motor Carrier Safety Administration

5-21-10
Date

³ Settlement Agreement, Paragraph 8.

CERTIFICATE OF SERVICE

This is to certify that on this 24 day of May, 2010, the undersigned mailed or delivered, as specified, the designated number of copies of the foregoing document to the persons listed below.

Ohmoon Kwan, Treasurer
Korea Express USA, Inc.
901 Castle Road
Secaucus, NJ 07094

One Copy
U.S. Mail

Anthony G. Lardieri, Esq.
Trial Attorney
Office of Chief Counsel (MC-CCE)
Federal Motor Carrier Safety Administration
802 Cromwell Park Drive, Suite N
Glen Burnie, MD 21061

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Loretta Bitner, Acting Field Administrator
Federal Motor Carrier Safety Administration
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Christopher Rotondo
New Jersey Division Administrator
Federal Motor Carrier Safety Administration
One Independence Way, Suite 120
Princeton, NJ 08540

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U.S. Mail

Docket Operations
U.S. Department of Transportation
1200 New Jersey Avenue SE
Room W12-140
Washington, DC 20590

Original
Personal Delivery



The signature is written in blue ink and is a cursive script. It appears to read 'Janice Miller'.